



Received 1/4/2012
NATURAL RESOURCES BOARD
National Life Drive
National Life Records Center Building
Montpelier, Vermont 05620-3201

December 29, 2011

Ellen Weitzler, P.E.
Water Quality Standards Coordinator
US EPA Region 1
5 Post Office Square, Suite 100 (OEP06-2)
Boston, MA 02109-3912

Re: Amendment to the Vermont Water Quality Standards

Dear Ms. Weitzler:

On December 13, 2011, the Water Resources Panel of the Natural Resources Board voted to adopt the amendments to the Vermont Water Quality Standards rule and the amended rule has been filed with the Secretary of State, with an intended effective date of December 30, 2011. The Panel has completed the state rulemaking procedure by adding a new section relating to the use of Compliance Schedules, §1-04(C). I am therefore enclosing with this letter the following documents to comply with the EPA review and approval process.

1. A copy of the section added to the Water Quality Standards, §1-04(C), Compliance Schedules, which is new in its entirety. This is the only change to the Water Quality Standards.
2. A Memorandum of Decision which discusses the rule, the comment received and the response to the comment from ANR and the Panel.
3. The one written comment on the proposed rule (from the Connecticut River Watershed Council) and ANR's response. These can also be found at <http://www.nrb.state.vt.us/wrp/rulemaking/2011/vwqs/vwqscomments.htm>
4. A copy of the Public Notice that we sent to interested persons and a Certificate of Service that lists the people and organizations to whom the Notice was sent.
5. A copy of the Adopted Rule Cover Sheet (which has been filed with the Vermont Secretary of State) that sets out all of the procedural steps that the rule has gone through on its way to adoption.



Letter to US EPA Region 1

Re: *Amendment to the Vermont Water Quality Standards*

December 29, 2011

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6. The December 1, 2011 Memorandum from the Legislative Committee on Administrative Rules approving the final proposed rule.

7. The final Memorandum (December 14, 2011) from the Office of the Secretary of State setting out the steps taken in the adoption of the rule.

8. The certification from the Vermont Attorney General stating that the amendment to the Water Quality Standards were duly adopted pursuant to state law.

Thank you for your attention to this matter.

Sincerely,



John H. Hasen
General Counsel

Enc.

cc: Mary Borg, Esq., Agency of Natural Resources, Department of Environmental Conservation, Water Quality Division

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WILLIAM H. SORRELL
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GENERAL



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STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER
05609-1001

CERTIFICATION OF LEGAL AUTHORITY

***VIA DELIVERY TO THE VERMONT NATURAL RESOURCES BOARD FOR
FORWARDING TO THE EPA***

December 20, 2011

Curt Spalding, Regional Administrator
U.S. Environmental Protection Agency, New England Office
5 Post Office Square
Suite 100, Mailcode ORA01-4
Boston, MA 02109-3912

Re: Attorney General's Certification Under 40 C.F.R. § 131.6(e).

Dear Mr. Spalding:

In accordance with 40 C.F.R. § 131.6(e), the Vermont Attorney General's Office hereby certifies that the December 14, 2011 amendment to the Vermont Water Quality Standards was duly adopted by the Water Resources Panel of the Vermont Natural Resources Board pursuant to the requirements of State law.

Sincerely,

A blue ink signature of William E. Griffin, consisting of stylized initials and a surname.

William E. Griffin
Chief Assistant Attorney General

cc: John Hasen, Vermont Natural Resources Board

9. The discharge of sewage into Class B waters shall not pose more than a negligible risk to public health. Compliance with this criterion shall include an assessment of both the level and reliability of treatment achieved and the impact of the discharge on the water quality of the receiving waters.

B. Assimilative Capacity

The capacity of waters to assimilate both the discharge of wastes and the impact of other activities that may adversely affect water quality, and at the same time to be maintained at a level of water quality that is compatible with their classification, is finite. The Secretary may hold a portion of the assimilative capacity in reserve to provide for future needs, including the abatement of future sources of pollution and future social and economic development.

Accordingly, the assimilative capacity of waters shall be carefully allocated in accordance with the "Wasteload Allocation Process" as adopted by the Secretary.

C. Compliance Schedules

A permit issued pursuant to Vermont's federally-delegated National Pollutant Discharge Elimination System (NPDES) program may, when appropriate, specify a schedule leading to compliance with the Vermont and Federal Clean Water Acts and regulations. The purpose of a schedule of compliance generally is to afford a permittee adequate time to comply with one or more permit requirements or limitations that are based on new, newly interpreted or revised water quality standards that became effective after both issuance of the initial permit for a discharge and July 1, 1977. For a permit requirement or limitation that is based on such a new, newly interpreted, or revised water quality standard, the Secretary may include a schedule of compliance in a permit at the time of permit reissuance or modification where the permittee either cannot comply with the permit requirement or limitation, or there is insufficient information available to determine whether the permittee can comply with the permit requirement or limitation. A schedule of compliance shall require compliance at the earliest possible time, as determined by the Secretary. A schedule of compliance shall include dates for specified tasks or activities leading to compliance and may include interim effluent limitations, as the Secretary deems appropriate. This provision does not limit the Secretary's authority to include compliance schedules in permits as provided by state law.

Section 1-05 Interpretation

Formal interpretation of these rules may be obtained as provided for in the Board's Rules of Procedure.

**State Of Vermont
Vermont Natural Resources Board
Water Resources Panel**

In re Water Quality Standards

VT Proposed Rule 11P022

MEMORANDUM OF DECISION

This proceeding involves a petition filed by the Vermont Agency of Natural Resources to Water Resources Panel (Panel) of the Vermont Natural Resources Board to amend the existing Water Quality Standards, pursuant to the Panel's authority in 10 V.S.A. §6025(d)(3), to add a provision allowing the Agency to set compliance schedules.

I. History

The Vermont Agency of Natural Resources filed a petition with the Water Resources Panel under 10 V.S.A. §6025(d)(3), seeking to amend the Vermont Water Quality Standards. The proposed rule revision would add language to the Vermont Water Quality Standards to allow for the inclusion of compliance schedules in discharge permits issued pursuant to Vermont's NPDES program.

The proposed rule would add subsection C to §1-04 of the Water Quality Standards as follows:

Section 1-04 Discharge Policy

C. Compliance Schedules

A permit issued pursuant to Vermont's federally-delegated National Pollutant Discharge Elimination System (NPDES) program may, when appropriate, specify a schedule leading to compliance with the Vermont and Federal Clean Water Acts and regulations. The purpose of a schedule of compliance generally is to afford a permittee adequate time to comply with one or more permit requirements or limitations that are based on new, newly interpreted or revised water quality standards that became effective after both issuance of the initial permit for a discharge and July 1, 1977. The Secretary may include a schedule of compliance in a permit at the time of permit reissuance or modification where the permittee either cannot comply with such permit requirements or limitations, or there is insufficient

information available to determine whether the permittee can comply with such permit requirements or limitations. A schedule of compliance shall require compliance at the earliest possible time, as determined by the Secretary. A schedule of compliance shall include dates for specified tasks or activities leading to compliance and may include interim effluent limitations, as the Secretary deems appropriate. This provision does not limit the Secretary's authority to include compliance schedules in permits as provided by state law.

At its May 10, 2011 meeting, the Panel voted to proceed to rulemaking with proposed amendments to -04 of the Vermont Water Quality Standards as requested by the Agency of Natural Resources

The Panel filed the proposed amendments with the Interagency Committee on Administrative Rules (ICAR) and, on June 13, 2011, the Panel appeared before ICAR. On June 14, 2011, the WRP received ICAR's approval of the rule proposal, and on June 16, 2011, the WRP filed the rule proposal with the Secretary of State's Office.

On July 7, 2011, the WRP sent notice of the proposed rule to various persons or organizations with an interest in public waters in Vermont, including local and regional officials, lake users and state agencies. In addition, the WRP posted the proposed rule on its web site. The proposed rule was published by the Secretary of State in newspapers of record on June 30, 2011, advising the public of public hearings and the opportunity to comment on the rule.

Public hearings on the proposed rule were convened on July 26, 2011 at approximately 7:00 p.m. in Barnard, Vermont, and on August 2, 2011 at approximately 7:00 p.m. in Poultney, Vermont. Thirty-seven people signed the attendance sheets for this hearing; no person who attended the hearing provided comment on the proposed amendment.

The deadline for filing written comments was August 31, 2011. One written comment was filed.

The Panel deliberated at its meeting on October 11, 2011.

II. Discussion

Schedules of compliance are allowed under the federal Clean Water Act and its implementing regulations (40 CFR 122.47). A compliance schedule gives a permittee

adequate time to comply with permit requirements based on new, newly interpreted or revised water quality standards that became effective after both issuance of the initial permit and July 1, 1977. A compliance schedule shall require compliance at the earliest possible time and shall include interim requirements and dates for their achievement. The Secretary may include a schedule of compliance at the time of permit reissuance or modification when the permittee cannot comply with the permit requirements or limitations, including water quality based effluent limitations.

Based on case law, the U.S. Environmental Protection Agency has interpreted the federal Clean Water Act to mean that states may only issue compliance schedules in NPDES discharge permits if authority is clearly provided in the state's water quality standards or implementing regulations. EPA does not consider current compliance schedule language in Vermont's 1974 Water Pollution Control Regulations to be legally sufficient. Compliance schedule language in the Standards would allow the Agency of Natural Resources to issue NPDES permits with compliance schedules for meeting effluent limitations, including water quality based limitations such as best management practices (BMPs). This authority would allow issuance of permits for long term TMDL implementation; e.g. implementation of numerous stormwater management practices necessary to meet Vermont's stormwater TMDL targets. Absent this authorizing language, compliance schedules would only be allowed through enforcement orders.

The issuance of NPDES permits with compliance schedules, as appropriate would allow permittees more time for implementation of new effluent limitations, but would keep them moving forward with strict enforceable interim requirements. Under EPA guidance, factors to consider in whether a compliance schedule is appropriate include for example, whether there is a need for modification of facilities or measures to meet effluent limitations, and how long implementation would take. Compliance schedules would somewhat ease the immediate economic impact of some permit requirements; for instance implementation of numerous BMPs required for stormwater TMDL implementation. Without the flexibility of compliance schedules, permittees faced with new effluent limitations will be issued enforcement orders or need to implement immediately, which may not be feasible. Either approach would result in increased costs to permittees and additional administrative burdens on the Agency.

One comment, from the Connecticut River Watershed Council (CRWC), was filed with the Panel. The CRWC supports the proposed rule, but, because it believes that the standards for issuing compliance schedules in the proposal are too vague, CRWC suggests that the rule would "benefit from more specific language that defines how ANR will determine eligibility for a compliance schedule." The CRWC writes:

The current wording which notes that the "Secretary may include a schedule of compliance in a permit at the time of permit reissuance or modification where the permittee either cannot comply with such permit requirements or limitations, or there is insufficient information available to determine whether the permittee can comply with such permit requirements or limitations" is vague and provides little guidance to either ANR, the public, or the permittee.

The Council suggests that criteria be added which both create categories of compliance (0-5 years; 5 - 10 years; greater than 10 and criteria for each of those categories. The idea being that longer timeframes require higher burdens of proof by the permittee. Economic or financial thresholds that currently exist in rule or guidance, such as the 2% MHI standard for municipalities or the "widespread social and economic harm" standard in UAAs, would provide more clarity to this rule. In addition we think that additional language that elaborates on the "insufficient information" would be beneficial. We assume you mean where a specific technology or BMP does not have demonstrated performance data with regard to water quality standard at hand? If that is case some examples in the rule would be helpful.

In response to CRWD's comment, ANR has provided a Memorandum to the Panel from Department of Environmental Conservation Commissioner David Mears. Mr. Mears writes:

ANR appreciates CRWC's support for compliance schedule authority and its thoughtful recommendations relating to the need to develop specific criteria for how and when to issue compliance schedules. As a result of these comments, ANR staff has researched other states to determine the best way to approach this issue. This research has uncovered a number states that have developed detailed policies/procedures to better define and promote consistency in the evaluation of requests for compliance schedules, the appropriate length and content of schedules, and the required documentation to support the decision. Examples of topics discussed in these policies/procedures include: criteria for evaluating whether to grant a compliance schedule; exemptions - when compliance schedules are never allowed; application requirements specifying documentation required from permittee to establish the need for a compliance schedule and the appropriate length of the schedule; criteria for crafting compliance schedule milestones;

guidelines for tracking compliance; and a permit writer's checklist to aid in the assessment and issuance of schedules of compliance.

After considering CRWC's comments and the approaches taken by other states, ANR has concluded that the most appropriate way to provide the specificity sought by CRWC is to develop an internal ANR procedure. The procedure will define the process and criteria by which ANR staff will evaluate and grant or deny requests for compliance schedules in NPDES permits and how the milestones and length of those schedules will be crafted. In developing this procedure, ANR will consider how best to define categories of compliance schedules and the associated criteria, and the best methods for insuring consistency in the evaluation of requests for compliance schedules. The procedure will be consistent with the compliance schedule requirements in Section 13.4.d. of the Vermont Water Pollution Control Regulations. Section 13.4.d requires that any compliance schedule include interim requirements and dates for their achievement. A new procedure would build upon these existing requirements.

ANR has informed the Panel that the proposal by Commissioner Mears is acceptable to the CRWC. The Panel endorsed ANR's approach to the issues raised by CRWC and approved the proposed rule with the understanding that ANR will implement the procedure as outlined in the Commissioner's memorandum.

At the November 17, 2011 hearing on the amendments before the Legislative Committee on Administrative Rules (LCAR), the Committee's Counsel suggested certain changes to the wording in the proposed rules. The Committee postponed final action on the rules to its December 1 meeting and asked the NRB's General Counsel to determine whether the Panel would be agreeable to its suggestions.

The Panel reviewed LCAR Counsel's suggestions and agreed to the changes.

With the Committee's and LCAR Counsel's suggested changes in **bold**, the annotated version of the final proposed rule therefore reads:

C. Compliance Schedules

A permit issued pursuant to Vermont's federally-delegated National Pollutant Discharge Elimination System (NPDES) program may, when appropriate, specify a schedule leading to compliance with the Vermont and Federal Clean Water Acts and regulations. The purpose of a schedule of compliance generally is to afford a permittee adequate time to

comply with one or more permit requirements or limitations that are based on new, newly interpreted or revised water quality standards that became effective after both issuance of the initial permit for a discharge and July 1, 1977. For a permit requirement or limitation that is based on such a new, newly interpreted, or revised water quality standard, the The Secretary may include a schedule of compliance in a permit at the time of permit reissuance or modification where the permittee either cannot comply with ~~such permit requirements or limitations~~ the permit requirement or limitation, or there is insufficient information available to determine whether the permittee can comply with ~~such permit requirements or limitations~~ the permit requirement or limitation. A schedule of compliance shall require compliance at the earliest possible time, as determined by the Secretary. A schedule of compliance shall include dates for specified tasks or activities leading to compliance and may include interim effluent limitations, as the Secretary deems appropriate. This provision does not limit the Secretary's authority to include compliance schedules in permits as provided by state law.

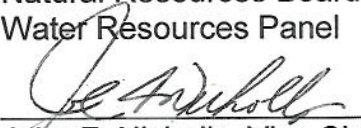
At its December 1, 2011 meeting. LCAR approved the rule as amended.

III. Conclusion

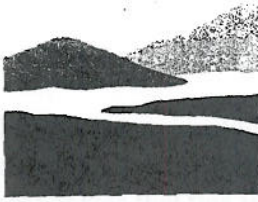
The Panel will file the amendments to the existing rule as approved by LCAR with the Secretary of State and will adopt the final proposed rule as a final rule.

Dated at Montpelier, Vermont this 13th day of December 2011.

Natural Resources Board
Water Resources Panel



John F. Nicholls, Vice Chair
W. William Martinez
William Boyd Davies
Jeffrey R. Cueto
Peter F. Young, Jr.



CRWC
CONNECTICUT RIVER WATERSHED COUNCIL

The River connects us.

P.O. Box 206 Saxtons River, VT 05154

802-869-2792 email: ddeen@ctriver.org

To: The Vermont Water Resources Panel

August 31, 2011

From: The Connecticut River Watershed Council

Re: Proposed Water Quality Standard change: Compliance Schedules

The Connecticut River Watershed Council, Inc. (CRWC) is a nonprofit membership citizen organization established in 1952 with a staff, member and board presence in Vermont and all the watershed states from Canada to Long Island Sound. CRWC advocates for the protection, restoration, and sustainable use of the Connecticut River and its four-state watershed. Having reviewed the proposed draft rule change CRWC would like to submit the following comments.

The CRWC supports the adoption of rules that describe the ANR of Natural Resources (ANR) authority to specify schedules of compliance for permits issued under Vermont's NPDES program. The Council agrees that there are instances when a permit should include a schedule of compliance for conditions designed to meet new, newly interpreted or revised water quality standards that became effective after both issuance of the initial permit and July 1, 1977. The Council appreciates the language proposed by ANR that indicates that compliance should occur for these types of standards at the earliest possible date and that schedules shall include specific interim steps with dates for compliance for each of those steps. That is a very important element in this proposed rule in order to ensure progress toward a requirement is ongoing.

The Council understands that there can be significant costs both in time and dollars to come into compliance with NPDES and water quality standards as both municipalities and private landowners work to retrofit existing development with stormwater best management practices in order to restore urban impaired streams. While the Council has had significant concerns about the length of time it has taken to commit to NPDES permits for the 12 impaired streams in Vermont, we also understand that the requirements being imposed on these private landowners not discharging into a municipal stormwater system are both complex and costly and are fundamentally based on an adaptive management approach. As such we realize that compliance for these types of stormwater BMPs cannot be successfully implemented within the typical 5-year time period.

We recognize that as BMPs are built and installed according to a technically sound plan that step-wise monitoring and assessment of their effectiveness is vital and that plans will likely be changed and improved as work progresses. We fully expect that a technically sound plan will call for work to occur over a 10-year timeframe. No small consideration in supporting such a timeframe is the cost of these projects for the many private landowners subject to these NPDES permits.

**VERMONT AGENCY OF NATURAL RESOURCES
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

To: Vermont Water Resources Panel

From: David Mears, DEC Commissioner

**Re: Comments from Connecticut River Watershed Council on Proposed Compliance Schedule
Language for Inclusion in Vermont Water Quality Standards Rulemaking**

Date: October 7, 2011

On August 31, 2011, the Connecticut River Watershed Counsel (CRWC) submitted comments on the Agency's proposed compliance schedule language for inclusion in the Vermont Water Quality Standards (WQS) rulemaking. The CRWC expressed support for including compliance schedule authority in the WQS for use in Vermont's NPDES program. However, the CRWC also stated that the proposed WQS change would "benefit from more specific language that defines how ANR will determine eligibility for a compliance schedule." More specifically, the CRWC recommended that criteria be added to create categories of compliance (0-5 years; 5-10 years; greater than 10 years) and criteria for each of those categories; the rationale being that longer timeframes require higher burdens of proof by the permittee.

ANR appreciates CRWC's support for compliance schedule authority and its thoughtful recommendations relating to the need to develop specific criteria for how and when to issue compliance schedules. As a result of these comments, ANR staff has researched other states to determine the best way to approach this issue. This research has uncovered a number of states that have developed detailed policies/procedures to better define and promote consistency in the evaluation of requests for compliance schedules, the appropriate length and content of schedules, and the required documentation to support the decision. Examples of topics discussed in these policies/procedures include: criteria for evaluating whether to grant a compliance schedule; exemptions - when compliance schedules are never allowed; application requirements specifying documentation required from permittee to establish the need for a compliance schedule and the appropriate length of the schedule; criteria for crafting compliance schedule milestones; guidelines for tracking compliance; and a permit writer's checklist to aid in the assessment and issuance of schedules of compliance.

After considering CRWC's comments and the approaches taken by other states, ANR has concluded that the most appropriate way to provide the specificity sought by CRWC is to develop an internal ANR procedure. The procedure will define the process and criteria by which ANR staff will evaluate and grant or deny requests for compliance schedules in NPDES permits and how the milestones and length of those schedules will be crafted. In developing this procedure, ANR will consider how best to define categories of compliance schedules and the associated criteria, and the best methods for insuring consistency in the evaluation of requests for compliance schedules. The procedure will be

consistent with the compliance schedule requirements in Section 13.4.d. of the Vermont Water Pollution Control Regulations. Section 13.4.d requires that any compliance schedule include interim requirements and dates for their achievement. A new procedure would build upon these existing requirements.



NATURAL RESOURCES BOARD
National Life Drive
National Life Records Center Building
Montpelier, Vermont 05620-3201

TO: Interested Persons

FROM: John Hasen, General Counsel

DATE: July 7, 2011

SUBJECT: Vermont Water Quality Standards
Notice of Public Hearing and Opportunity to Comment on Proposed Rules

Summary

The Vermont Agency of Natural Resources has filed a petition with the Water Resources Panel under 10 V.S.A. §6025(d)(3), seeking to amend the Vermont Water Quality Standards. The proposed rule revision would add language to the Vermont Water Quality Standards to allow for the inclusion of compliance schedules in discharge permits issued pursuant to Vermont's NPDES program. Schedules of compliance are allowed under the federal Clean Water Act and its implementing regulations (40 CFR 122.47). A compliance schedule gives a permittee adequate time to comply with permit requirements based on new, newly interpreted or revised water quality standards that became effective after both issuance of the initial permit and July 1, 1977. A compliance schedule shall require compliance at the earliest possible time and shall include interim requirements and dates for their achievement. The Secretary may include a schedule of compliance at the time of permit reissuance or modification when the permittee cannot comply with the permit requirements or limitations, including water quality based effluent limitations.

Based on case law, the U.S. Environmental Protection Agency has interpreted the federal Clean Water Act to mean that states may only issue compliance schedules in NPDES discharge permits if authority is clearly provided in the state's water quality standards or implementing regulations. EPA does not consider current compliance schedule language in Vermont's 1974 Water Pollution Control Regulations to be legally sufficient. Compliance schedule language in the Standards would allow the Agency of Natural Resources to issue NPDES permits with compliance schedules for meeting effluent limitations, including water quality based limitations such as best management practices (BMPs). This authority would allow issuance of permits for long term TMDL implementation; e.g. implementation of numerous stormwater management practices necessary to meet Vermont's stormwater TMDL targets. Absent this authorizing language, compliance schedules would only be allowed through enforcement orders.

The issuance of NPDES permits with compliance schedules, as appropriate would allow permittees more time for implementation of new effluent limitations, but would keep them moving forward with strict enforceable interim requirements. Under EPA guidance, factors to consider in whether a compliance schedule is appropriate include for example, whether there is a need for modification of facilities or measures to meet effluent limitations, and how long implementation would take. Compliance schedules would somewhat ease the immediate economic impact of some permit requirements; for instance implementation of numerous BMPs required for stormwater TMDL implementation. Without the flexibility of compliance schedules, permittees faced with new effluent limitations will be issued enforcement orders or need to implement immediately, which may not be



feasible. Either approach would result in increased costs to permittees and additional administrative burdens on the Agency.

Based on the petition, the Panel has proposed to amend §1-04 of the Vermont Water Quality Standards as requested by the Agency of Natural Resources.

The Panel has proposed this amendment to the present rule for the purpose of receiving public comment. The Panel will decide whether or not to adopt the proposed rule only after carefully considering all public comments received at the public hearing scheduled for this matter or in writing before the close of the comment period on **August 31, 2011**.

The Panel's decision will be in writing. Copies of the decision will be posted on this web site and will be mailed to all person's on the Panel's distribution list for this matter and to any additional persons who attend the public hearing, who submit written comments with an email or mailing address, or who otherwise indicate that they would like to receive a copy.

Proposed Rule

The proposed rule, filed with the Vermont Secretary of State on June 16, 2011, reads:

Section 1-04 Discharge Policy **C. Compliance Schedules**

A permit issued pursuant to Vermont's federally-delegated National Pollutant Discharge Elimination System (NPDES) program may, when appropriate, specify a schedule leading to compliance with the Vermont and Federal Clean Water Acts and regulations. The purpose of a schedule of compliance generally is to afford a permittee adequate time to comply with one or more permit requirements or limitations that are based on new, newly interpreted or revised water quality standards that became effective after both issuance of the initial permit for a discharge and July 1, 1977. The Secretary may include a schedule of compliance in a permit at the time of permit reissuance or modification where the permittee either cannot comply with such permit requirements or limitations, or there is insufficient information available to determine whether the permittee can comply with such permit requirements or limitations. A schedule of compliance shall require compliance at the earliest possible time, as determined by the Secretary. A schedule of compliance shall include dates for specified tasks or activities leading to compliance and may include interim effluent limitations, as the Secretary deems appropriate. This provision does not limit the Secretary's authority to include compliance schedules in permits as provided by state law.



Hearing Schedule

Public hearings are scheduled for Tuesday, July 26, 2011, beginning at 7:00 PM, at the Town of Barnard Town Hall, 115 North Road, Barnard, Vermont and for Tuesday, August 2, 2011, beginning at 7:00 PM, at the Poultney High School, 154 East Main Street, Poultney, Vermont.

Public Comment

View comments filed to date by going to our website at
<http://www.nrb.state.vt.us/wrp/pendingrules.htm>

Written comments must be filed (received by the Water Resources Panel) no later than 4:30 PM on August 31, 2011. Comments may be delivered or mailed to the Water Resources Panel or filed by email at nrbcomments@state.vt.us. All comments, including any identifying information, are considered to be public records and will be posted on this web site.

Mail or deliver comments to the following address:

Water Resources Panel
National Life Records Center
National Life Drive
Montpelier, VT 05602-3201

If you have any questions about this rulemaking, please contact John H. Hasen, General Counsel, 828-5444, or john.hasen@state.vt.us

Decision

When the decision of the Water Resources Panel in this rulemaking is issued, we will post it on our website <http://www.nrb.state.vt.us/wrp/pendingrules.htm>

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CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of July, 2011 a copy of the foregoing NOTICE OF PUBLIC HEARING; In Re: Rules Determining Mean Water Levels and Vermont Water Quality Standards was sent first class mail, postage prepaid to the following:

Arrowhead Mountain Lake
Association
John Anderson
133 Route 7 North
Milton, VT 05468-3970

Cedar Lake Association
Dave Weaver
488 Monkton Road
North Ferrisburg, VT 05473

Central Vermont Trout Unlimited
Dana Baker
12 Sherry Road
South Burlington, VT 05403

Connecticut River Watershed
Advisory Commission
Nathaniel Tripp
RFD 3
St. Johnsbury, VT 05819

Conservation Law Foundation
15 East State Street, Suite 4
Montpelier, VT 05602-3015

Crystal Lake Preservation Assoc.
David Lawes
P.O. Box 539
Barton, VT 05822-0539

Daniels Pond Association
Edward Pechalonis
70 Bluebird Lane
Lyndonville, VT 05091

Echo Lake Association
Peter Engels
P.O. Box 219
East Charleston, VT 05833

Echo Lake Property Owners
Association
Adele & Bill Steele
Burr Pond Road
Sudbury, VT 05733

Eligo Lake Association
Beverly Shepard
708 Bridgmann Hill Road
Hardwick, VT 05843

Friends of the Green River
Reservoir
c/o Bill Bartlett
P.O. Box 123
Hyde Park, VT 05655

Greensboro Association
Philip Gray
1109 Craftsbury Road
Greensboro, VT 05841

Greewood Lake Association
Paul White
53 Cobble Hill Meadows
Barre, VT 05641

Island Pond Lakeshore Association
Henry Cuquel
P.O. Box 195
Island Pond, VT 05846

Joe's Pond Association
Tom Dente
P.O. Box 52
West Danville, VT 05873

Lake Beebe Property Owners
Assoc.
Joanne Zeoli
461 Birch Road – Hubbardton
Brandon, VT 05733

Lake Bomoseen Association
Frank Wilbur
69 Neshobe Beach
Bomoseen, VT 05732

Lake Carmi Camper's Association
Richard Lang
2 Summer Street
Montpelier, VT 05602

Lake Champlain Basin Program
William Howland
54 West Shore Road
Grand Isle, VT 05458

Lake Champlain Committee
Lori Fisher
208 Flynn Avenue
Building 3, Studio 3F
Burlington, VT 05401

Lake Champlain Restoration
Association
P.O. Box 196
Bridport, VT 05734

Lake Dunmore – Fern Lake
Association
Jackie Beacham
P.O. Box 627
Middlebury, VT 05753

Lake Eden Association
Gary Durett
P.O. Box 203
Eden, VT 05652

Lake Fairlee Association
Tofer Sharp
6117 Rt 113
Thetford Center, VT 05075

Lake Groton Association
John LaRosa
820 Stewart Road
Berlin, VT 05602

Lake Harveys Association, Inc.
Jean Hall Bouffard
P.O. Box 86
Barnet, VT 05821

Lake Hortonia Property Owners
Association
Carole Silvera
P.O. Box 548
Round Lake, NY 12151

Lake Iroquois East Side Camper's
Association
Alan Pratt
402 Frost Road
Waterbury, CT 06705

Lake Morey Protective Association
Greg McGrath
3637 Lake Morey Road
Fairlee, VT 05045

Lake Parker Association
Randy Williams
394 Parker Road
West Glover, VT 05875

Lake Raponda Association
Cindy Meyer
312 Raponda Road
Wilmington, VT 05363

Lake Rescue Association
Dave Hearne
Box 572
Ludlow, VT 05149

Lake St. Catherine Association, Inc.
Jim Canders
225 Kinni Kinnic Lane
Poultney, VT 05764

Lewis Creek Association
Marty Illick
442 Lewis Creek Road
Charlotte, VT 05445-9154

Lyford Pond Association
Pat Bergman
P.O. Box 121
West Danville, VT 05873

Miles Pond Campers Association
Robert Briggman
78 Groveland Terrace
Newington, CT 06111

Neal Pond Campowners
Association
Malcolm Downing
Neal Pond
Lunenburg, VT 05906

Ninevah Foundation
David Hoffer
16 Virginia Ridge Road
Sudbury, MA 01776-1053

Paran Recreation Inc.
Jeannie Jenkins
P.O. Box 393
North Bennington, VT 05257

Shadow Lake Association
Rick Utton
P.O. Box 135
Glover, VT 05839

Silver Lake Association
Cliff Aikens
R.R. #1 Box 307
Woodstock, VT 05091

South End Newark Pond Assoc.
Amanda Lane
P.O. Box 802
Lyndonville, VT 05851

South Pond Land Owners
Association
Christine Packard
75 Old Stage Road
Essex Jct., VT 05452

Sunset Lake, Sunrise Lake, Perch
Pond Association
Jamie Longtin
5 Ian Place
Williston, VT 05495

The Nature Conservancy
Mary Droege
R.R. #1 Box 266
Castleton, VT 05735

Tinmouth Pond Lake Assoc.
Holly Noble
48 Chipmunk Crossing
Tinmouth, VT 05773-1119

Valley Lake Association
Alan Ploof
Box 255, Barnes Road
Montpelier, VT 05602

Vermont Natural Resources Council
9 Bailey Avenue
Montpelier, VT 05602

Westmore Association, Inc.
Wayne French
1833 Vt Rte 5A
Orleans, VT 05860

Woodbury Lake Association
Reginald Lamb
15 Cherokee Lane
Essex Jct., VT 05452

Woodford Lake Estates, Inc.
Carol Swanson
28 Clover Street
Ansonia, CT 06401

Jon Groveman, Esq.
Agency of Natural Resources
103 South Main Street
Waterbury, VT 05671

Karen Dupont
Administrative Secretary

S:\NRB\NRB - Shared Users\Karend\NRB
Rulemaking\WRP Rulemaking\2011
Rulemaking\Mean Water Level Rules\mailing list for
notice of public hearing 7-7-11.docx

Administrative Procedures – Adopted Rule Coversheet

Instructions:

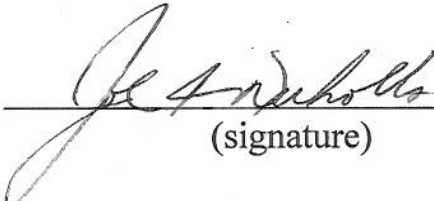
In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” adopted by the Office of the Secretary of State, this adopted filing will be considered complete upon the submission and acceptance of the following components to the Office of the Secretary of State and to the Legislative Committee on Administrative Rules:

- Adopted Rule Coversheet
- Adopting Page
- Clean text of the rule (Amended text without annotation)
- Letter explaining in detail changes from final proposal.

All forms submitted to the Office of the Secretary of State, requiring a signature shall be original signatures of the appropriate adopting authority or authorized person, and all filings are to be submitted, no later than 3:30 pm on the last scheduled day of the work week.

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

**Rule Title: Vermont Water Quality Standards Amendments
(Summer 2011)**

, on 12/13/11.
(signature) (date)

Printed Name and Title:

John F. Nicholls, Vice Chair, Water Resources Panel, Natural Resources Board

RECEIVED BY: _____

- ☐ Adopted Rule Coversheet
- ☐ Adopting Page
- ☐ Clean text of the rule (Amended text without annotation)
- ☐ Letter explaining in detail changes from final proposal.

1. TITLE OF RULE FILING:

Vermont Water Quality Standards Amendments (Summer 2011)

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

11P-022

3. ADOPTING AGENCY:

Natural Resources Board

4. LEGAL AUTHORITY / ENABLING LEGISLATION:

(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

10 V.S.A. §6025(d)(3)

5. THE FILING HAS CHANGED SINCE THE FILING OF THE FINAL PROPOSED RULE.

6. THE AGENCY HAS INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE, INCLUDING CHANGES IN ECONOMIC IMPACT.

7. THE LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES DID NOT OBJECT TO THE FINAL PROPOSAL.

8. PROCEDURAL HISTORY OF ADOPTION:

ICAR Filing: 05/25/2011

Proposal Filed with Office of the Secretary of State: 06/15/2011

Notices Posted Online:

Notices Published In Newspapers of Record: 06/30/2011

A Hearing WAS Held.

Hearings Held *(PLEASE USE ADDITIONAL SHEETS TO PROVIDE THE DATE, TIME AND LOCATION OF ALL HEARINGS IF THIS FORM IS INSUFFICIENT TO LIST ALL HEARINGS HELD):*

Date: 7/26/2011

Time: 07:00 PM

Location: Town of Barnard Town Hall, 115 North Road, Barnard, Vermont

Date: 8/2/2011

Time: 07:00 PM

Location: Poultney High School, 154 East Main Street,
Poultney, Vermont

Date:

Time: PM

Location:

Date:

Time: PM

Location:

Deadline for Public Comment: 08/31/2011

Final Proposal —

Filed with Secretary of State: 10/27/2011

Filed with LCAR: 10/26/2011

Dates of LCAR Review: 11/17/2011, 12/01/2011, ,

Adopted Rule —

Filed with Secretary of State: 12/14/2011

Filed with LCAR: 12/14/2011

9. EFFECTIVE DATE: 12/30/2011

(A RULE MAY TAKE EFFECT 15 DAYS AFTER ADOPTION IS COMPLETE OR AT A LATER TIME PROVIDED IN THE TEXT OF THE RULE SEE 3 V.S.A. §845(d) FOR DETAILS).

Run Spell Check

c/o LEGISLATIVE COUNCIL
115 STATE STREET
DRAWER 33
MONTPELIER, VT 05633-5301



PHONE: (802) 828-2231
FAX: (802) 828-2424

Rep. Richard J. Marek, Chair
Rep. Patsy French
Rep. Robert Krebs
Rep. Linda K. Myers

STATE OF VERMONT

Sen. Mark A. MacDonald, Vice-Chair
Sen. Ann E. Cummings
Sen. Diane B. Snelling
Sen. Richard Westman

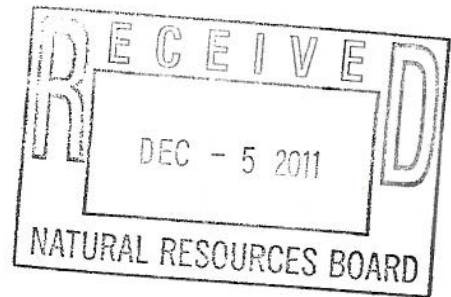
Legislative Committee on Administrative Rules

TO: John Hasen, General Counsel
Vermont Natural Resources Board
National Life Records Center Bldg
Montpelier, VT 05620-3201

FROM: Katie Pickens, Committee Assistant *Katie*
Legislative Committee on Administrative Rules

DATE: December 1, 2011

SUBJECT: 11-P22 - Vermont Natural Resources Board/Vermont Water Quality Standards
Amendments (Summer, 2011)
11-P23 - Vermont Natural Resources Board/Vermont Surface Level Rules
Amendments (2011)
11-P24 - Vermont Natural Resources Board/Vermont Rules Determining Mean
Water Level Amendments (2011)



The Legislative Committee on Administrative Rules considered the above-mentioned rules at its meeting on December 1, 2011. The committee approved the rule with modifications appearing in the attached memorandum from John Hasen, General Counsel to the Vermont Natural Resources Board, to the Legislative Committee on Administrative Rules, dated November 22, 2011.

In addition, the board is authorized pursuant to Sec. 4(i) of the committee's rules, to make modifications of a technical and typographical nature and, if necessary, additional modifications consistent with those specifically approved.

The procedure for filing an adopted rule can be found in 3 V.S.A § 843.

cc: Louise Corliss, APA Clerk, Office of the Secretary of State

(802) 828-2863

MEMORANDUM

OFFICE OF THE SECRETARY OF STATE

To: John H. Hasen Vermont Natural Resources Board,
National Life Records Bldg., National Life Drive,
Montpelier, VT 05620-3201 Tel: 802-828-5444 Fax:
802-828-3356 Email: john.hasen@state.vt.us URL:
<http://www.nrb.state.vt.us/wrp/index.htm> For
Copies: Denise Wheeler Vermont Natural Resources
Board National Life Records Bldg., National Life
Drive, Montpelier VT 05620-3201 Tel: 802-828-5441
Fax: 802-828-3356 Email:
denise.wheeler@state.vt.us

From: Louise Corliss, APA Clerk

Re: Vermont Water Quality Standards Amendments (Summer 2011)

Date: 12/14/2011

We received Proposed Rule on 06/15/2011
Final Proposed on 10/27/2011
Adopted Rule on 12/14/2011

We have assigned the following rule number(s):

Proposed Rule Number: 11P022

Adopted Rule Number: 11050

(Final Proposals are not assigned a new number; they retain
the Proposed Rule Number.)

The following problems were taken care of by phone/should be
taken care of immediately: Proposed Filing: The deadline for public comment
was not in compliance with 3 V.S.A. § 840(c), the
agency authorized this office to change that date
to August 31, 2011 by email. Final Proposed: The
title on the final proposed rule was different
than what the rule was proposed under the change
was unintended the title will remain Vermont Water
Quality Standards Amendments (Summer 2011).

We cannot accept this filing until the following problems are
taken care of:

The ad for this proposed rule appeared/will appear in
newspapers of record on 06/30/2011 & / / .

This rule takes effect on 12/30/2011

Please note: Supplemental information has been requested
regarding the signature of "Acting Chair" John
Nicholls. Requested documentation received
6/20/2011.

If you have any questions, please call me at 828-2863.
OR E-Mail me at: lcorliss@sec.state.vt.us

cc:Katie Pickens